

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**CONTINENTAL INSURANCE COMPANY,)
as Subrogee of GDB International, Inc.,)
)
)
Plaintiff,)
)
vs.) **Cause No. 07-407-GPM**
)
)
**TKT, INC., d/b/a NORRENBERNS TRUCK)
SERVICE,)
)
Defendant.)****

MEMORANDUM AND ORDER

MURPHY, District Judge:

On July 14, 2008, this Court granted Plaintiff's motion for summary judgment and entered judgment in favor of Plaintiff and against Defendant in the amount of \$424,230.03, plus costs and pre and post-judgment interest. (*See* Docs. 47, 48). The Court's Memorandum and Order did not discuss attorney's fees or costs. Plaintiff has now filed a motion seeking attorney' fees and nontaxable expenses pursuant to Federal Rule of Civil Procedure 54(d)(2) (Doc. 50). Plaintiff has also filed a bill of costs (Doc. 49). Defendant filed a response to the motion (*see* Doc. 51), but it did not object to the bill of costs.

In its July 14 Order, the Court found that Norrenberns breached its contract with Continental. The contract provides that in the event of a legal dispute, "the prevailing party shall be entitled to reimbursement for reasonable attorney's fees, cost [sic] and expenses." (*See* Doc. 34-2 [Exhibit 1], para. 16). Continental has submitted its attorney's affidavit which attests that the fees total \$37,417.50, and nontaxable costs total \$2,952.63. The Court finds these amounts to be reasonable.

Norrenberns's only response to this issue is to argue that Continental cannot recover attorney's fees and costs because they were not addressed in the July 14 Order. Pursuant to Rule 60(a), however, the Court may correct a mistake arising from oversight or omission either on motion or on its own, with or without notice. *See* FED. R. CIV. P. 60(a). And, because a notice of appeal has not been docketed, the Court need not seek leave from the Court of Appeals to do so.

Accordingly, the motion for attorney's fees and nontaxable expenses (Doc. 50) is **GRANTED**. The Clerk of Court is **DIRECTED** to amend the judgment in this action to award Plaintiff attorney's fees in the amount of **\$37,417.50** and nontaxable expenses in the amount of **\$2,952.63** pursuant to the parties' contract. Moreover, because there are no objections to the bill of costs, the Clerk shall tax costs in the amount of **\$405.00**.

IT IS SO ORDERED.

DATED: 8/11/08

s/ G. Patrick Murphy
G. Patrick Murphy
United States District Judge